

## Theodore H. Kuyper

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**From:** Keith J. Keogh  
**Sent:** Wednesday, August 7, 2024 10:03 AM  
**To:** Larson, Anne E.; Theodore H. Kuyper  
**Cc:** Klein, Margot; Sedaei, Sam; Blanch, Sandra  
**Subject:** RE: Regal-Jenkins Rule 68 Offer of Judgment [ODNSS-OGL.100843.000005]

Anne

It looks the offer only states Plaintiff can make a claim in the Bankruptcy. Putting aside the offer of judgment is not effective as it is required to be a set amount capable of being confirmed as a judgment and not contingent, is that the offer? (The 7<sup>th</sup> Circuit has tons of cases holding ambiguous or contingent offers are not effective as they are not capable of being rendered to judgment by the clerk at acceptance).

As for the rest, your argument that the amendment clarified existing law is nonsense. The defense bar failed to convince the legislature to make the amendment retroactive. So the fall back argument that a different legislature amended the law 16 years after it was enacted means that the amendment really clarified what the law always was so it is treated as retroactive is a frivolous argument. As I'm sure you are aware, there is a whole body of case law discussing whether a change in law is retroactive. Yet under your argument, almost any amendment would clarify the law and essentially be retroactive.



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**From:** Larson, Anne E. <anne.larson@ogletree.com>  
**Sent:** Wednesday, August 7, 2024 9:36 AM  
**To:** Keith J. Keogh <keith@keoghlaw.com>; Theodore H. Kuyper <Tkuyper@Keoghlaw.com>  
**Cc:** Klein, Margot <margot.klein@ogletreedeakins.com>; Sedaei, Sam <sam.sedaei@ogletreedeakins.com>; Blanch, Sandra <sandra.blanch@ogletreedeakins.com>  
**Subject:** Regal-Jenkins Rule 68 Offer of Judgment [ODNSS-OGL.100843.000005]

Please see attached Rule 68 Offer of Judgment. Please confirm receipt. Thank you, Anne.

### Anne E. Larson | Ogletree Deakins

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